

REMARKS

The above-identified application is United States application serial number 09/838,972 filed on April 20, 2001. Claims 1-20 are pending in the application. Claims 1-20 are rejected. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nolan (US Patent 5,754,873).

Rejection of Claim Under 35 U.S.C. §112

Regarding the rejection of Claim 7 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement, the applicant respectfully traverses the rejection on the basis that the claim, as originally filed, is expressed in terms that enable a person skilled in the art to which it pertains to make and use the invention. Claim 7 is unambiguous on its face, stating that "sizing comprises sizing to zero all images with ranking information less than a particular value." The "particular value" is readily inferred from the specification to relate to a preselected or user-selected value or the like.

With respect to the applicant's use of the term "poor" in paragraph [0027], the context is merely in terms of an example of a possible implementation and is not to be read into the claims as limitation. In the particular example, the term "poor" does not relate to a vague quality judgment, but instead relates to a specific rank value that is preselected or selected by a user, or the like to describe a particular image. Paragraph 6 of the originally filed specification describes the assignment of ranking values as follows:

"The user may select one of a number of discrete rankings for each photographic image, based on criteria such as the subjective value to the user of each photographic image."

Further clarification of the term "poor" is impossible and unnecessary in the present context since the term is used to describe a value assigned by the user.

Rejection of Claim Under 35 U.S.C. §102(b)

Regarding the rejection of Claims 1-20 under 35 U.S.C. §102(b) as being anticipated by Nolan (US Patent 5,754,873), the applicant respectfully traverses the rejection of all

has nothing to do
w/ quality of the ranking

claims on the basis that Nolan fails to disclose any aspect of "ranking" or usage and/or assignment of "ranking information" according to the claims.

In the present application, the aspect of ranking relates to relative standing or position of images in a system. In the present context, pertinent definitions for the word "rank" or "ranking" can be found in many standard dictionaries. For example, Dictionary.com (www.dictionary.com) defines rank as "A relative position or degree of value in a graded group." Similarly, Merriam-Webster Online dictionary (www.m-w.com/cgi-bin/dictionary) defines pertinent noun term of rank as "Relative standing or position and a grade of official standing in a hierarchy." Merriam-Webster defines a verb term of rank as "To determine the relative position of (rate)."

American Heritage Dictionary of the English Language, Fourth Edition (www.bartlesby.com) pertinently defines the noun of rank as: "A relative position in a society;" and "A relative position or degree of value in a graded group." The verb term for rank is defined as "to give a particular order or position to; classify" and "To outrank or take precedence over. "

Common to all pertinent definitions of "rank" or "ranking information" is the aspect of relative rating or classification within a hierarchy.

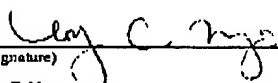
The applicant clarifies that comparative aspect of ranking in the originally filed specification in paragraph 6 as follows: "The user may select one of a number of discrete rankings for each photographic image, based on criteria such as the subjective value to the user of each photographic image." The applicant further clarifies the comparative aspect of ranking in paragraph 23 as follows: "As used in this document, the term "discrete ranks" refers to a fixed number of ranking options provided to the user. As an example, five discrete ranks may be provided: poor, fair, good, better and best. As another example, three discrete ranks may be provided: best, average, and worst. In another embodiment, the user is not limited to discrete ranks, and instead may input a number or other criteria of the user's choice. As an example, no discrete ranks are provided to choose from, and the user enters the number "5.4" when prompted for ranking information."

In contrast, Nolan fails to disclose any aspect of "ranking" or inferential aspects of ranking such as comparison of images, hierarchy, relative positioning, rating, or the like. Instead Nolan simply describes a system for selecting a preferred display size and scaling of text to fit the preferred size. For example, Nolan at col. 2, lines 34-36 states "A preferred display size is input to the computer system by a user and this preferred text display size is stored in memory." Nolan describes a scaling operation in a manner that completely omits any inference of ranking or relative comparison in the remainder of column 2, and column 3 to line 25. Similarly, Nolan omits any discussion, disclosure, or inference of any aspect of "ranking" of data.

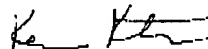
CONCLUSION

In view of the amendments and remarks set forth herein, the application, including all remaining Claims 1-20, is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned at (949) 251-0250.

I hereby certify that this correspondence is being facsimile transmitted to the USPTO, Technology Center 3600, Before Final at (703) 872-9314 on the date shown below:


(Signature)
Jay C. Ngo
(Printed Name of Person Signing Certificate)
July 17, 2003
(Date)

Respectfully submitted,



Ken J. Koestner
Attorney for Applicant(s)
Reg. No. 33,004